

JOSEPH M. SUAREZ (JS1571)

Attorney(s): **SUAREZ & SUAREZ**

Office Address & Tel No.: **2016 Kennedy Blvd., Jersey City, N.J., 07305**
Tel # 201-433-0778 – Fax # 201-433-4899

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Attorneys for Defendant, LINDEMON, WINCKELMANN,
DEUPREE, MARTIN, RUSSELL & ASSOCIATES, P.C.

Plaintiff,
SRC CONSTRUCTION CORP. OF
MONROE d/b/a SRC INDUSTRIES, INC.

vs.

Defendants,
ATLANTIC CITY OF HOUSING AUTHORITY
d/b/a THE CITY OF ATLANTIC CITY
HOUSING AUTHORITY, LINDEMON,
WINCKELMANN, DEUPREE, MARTIN,
RUSSELL & ASSOCIATES, P.C. and CZAR
ENGINEERING

Civil Action No. 1:10-cv-03461-JEI-AMD

**NOTICE OF MOTION TO DISMISS
PLAINTIFF'S COMPLAINT OR IN THE
ALTERNATIVE TO BAR TESTIMONY
AND TO IMPOSE COSTS AND FEES**

Hearing Date: December 5, 211

ORAL ARGUMENT NOT REQUESTED

PLEASE TAKE NOTICE that on December 5, 2011, at 9:00 am, or as soon thereafter as counsel may be heard, Defendant Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C., by and through their counsel, Suarez & Suarez, shall move before the Honorable Joseph E. Irenas, United States District Court Judge, at the United States District Court for the District of New Jersey, Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets Room 1050, Camden, New Jersey, for the entry of an Order dismissing Plaintiff's Complaint as to the Movant or in the alternative to bar testimony and to impose costs and fees.

PLEASE TAKE FURTHER NOTICE that, in support of its Motion, Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C. shall rely upon the annexed Certification and exhibits attached hereto.

PLEASE TAKE FURTHER NOTICE that oral argument is not requested.

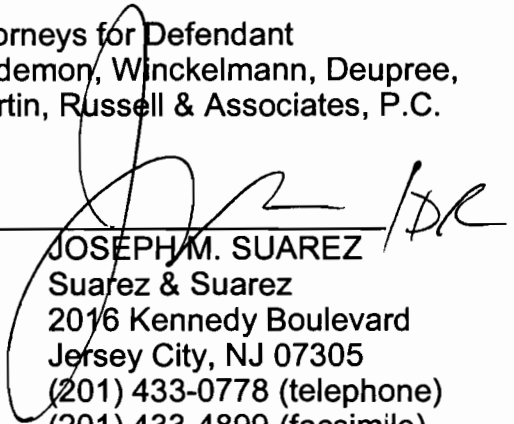
PLEASE TAKE FURTHER NOTICE that this Motion shall be deemed uncontested unless responsive papers are timely filed.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith.

SUAREZ & SUAREZ

Attorneys for Defendant
Lindemon, Winckelmann, Deupree,
Martin, Russell & Associates, P.C.

By



JOSEPH M. SUAREZ
Suarez & Suarez
2016 Kennedy Boulevard
Jersey City, NJ 07305
(201) 433-0778 (telephone)
(201) 433-4899 (facsimile)

Dated: November 7, 2011

JOSEPH M. SUAREZ (JS1571)

Attorney(s): **SUAREZ & SUAREZ**

Office Address & Tel No.: **2016 Kennedy Blvd., Jersey City, N.J., 07305**
Tel # 201-433-0778 – Fax # 201-433-4899

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Attorneys for Defendant, LINDEMON, WINCKELMANN,
DEUPREE, MARTIN, RUSSELL & ASSOCIATES, P.C.

Plaintiff,
SRC CONSTRUCTION CORP. OF
MONROE d/b/a SRC INDUSTRIES, INC.

vs.

Defendants,
ATLANTIC CITY OF HOUSING AUTHORITY
d/b/a THE CITY OF ATLANTIC CITY
HOUSING AUTHORITY, LINDEMON,
WINCKELMANN, DEUPREE, MARTIN,
RUSSELL & ASSOCIATES, P.C. and CZAR
ENGINEERING

Civil Action No. 1:10-cv-03461-JEI-AMD

**CERTIFICATION OF
DAVID C. ROSCISZEWSKI, ESQ.**

Hearing Date: December 5, 2011

CERTIFICATION OF DAVID C. ROSCISZEWSKI

I, David C. Rosciszewski, do hereby certify and state as follows:

1. I am an attorney at law of the State of New Jersey and an associate with the firm of Suarez & Suarez, counsel for Defendant Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C. ("LWDMR") in connection with the above captioned matter.

2. I submit this Certification in support of LWDMR's Motion to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 37(b)(2), or in the alternative, to bar the trial testimony of the Plaintiff's representatives and to impose costs and fees.

3. On July 8, 2010, the Plaintiff, SRC Construction Corp. of Monroe d/b/a SRC Industries, Inc., filed a Complaint with the District Court of New Jersey.

4. On or about August 25, 2010, Defendant, LWDMR, filed its Answer to the Complaint.

5. On September 6, 2011, the Court entered an Amended Scheduling Order which established a pre-trial factual discovery end date of October 31, 2011. See attached Exhibit A. The Court directed that all pre-trial discovery was to be concluded by that date.

6. On October 17, 2011, Co-Defendant Atlantic City Housing Authority ("ACHA") issued to the Plaintiff Notices in Lieu of Subpoena for the depositions of Plaintiff's representatives Michael Caridi, Janet Rotunde, Richard Levine, Duff McQueen, Don Sanders, Michael Song, Joseph Rotunde, Richard Rotunde and Kim Fulner for various dates between October 24 and October 31, 2011. See Exhibit B.

7. Michael Caridi, the owner of Plaintiff SRC, failed to appear for his deposition on October 24, 2011.

8. The attorney for Co-Defendant ACHA then contacted Plaintiff's attorney to inquire as to why Mr. Caridi failed to appear for his deposition. See attached Exhibit C.

9. Counsel for Plaintiff responded by e-mail stating that he did not recall receiving confirmation notices of the depositions from the Co-Defendant's attorney and that he did not recall agreeing to the deposition dates set forth in the notices. See Exhibit C.

10. Plaintiff's attorney suggested a conference call to resolve the matter, but it appears that no call ever took place.

11. None of the depositions noticed by the Co-Defendant for October 24 through October 31, 2011 took place.

12. As noted above, the deadline for fact discovery was October 31, 2011.

13. Fed.R.Civ.Pro. Rule 37(d) provides that the Court on motion can order sanctions if a party or a party's officer, director or managing agent fails to appear for deposition after being served with proper notice. Rule 37(d)(3) provides the types of sanctions for such failure which include prohibiting the disobedient party from supporting or opposing designated claims or defenses or prohibiting the party from introducing designated matters in evidence, or striking pleadings in whole or in part or dismissing the action or proceeding in whole or in part.

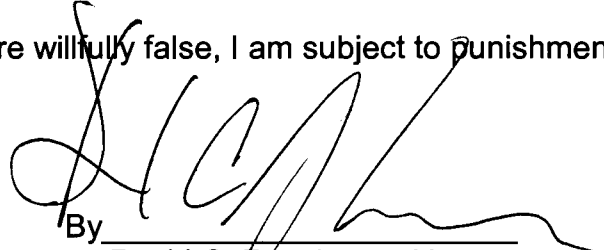
14. In addition, Fed.R.Civ.Pro. Rule 37(b)(2) provides that if a party or a party's officer, director or managing agent or a witness designated under Rule 30(b)(6) or 31(a)(4) fails to obey an Order to provide or permit discovery, the Court where the action is pending may issue further just Orders which may include prohibiting the disobedient party from supporting or opposing designated claims or defenses or from introducing designated matters in evidence, striking pleadings in whole or in part, or dismissing the action or proceeding in whole or in part.

15. Rule 37(b)(2)(C) further provides that in addition to the aforementioned sanctions, the Court must order the disobeying party, the attorney advising that party or both, to pay the reasonable expenses, including attorney's fees caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

16. It is respectfully submitted that in this instance, counsel for Plaintiff had no justifiable reason for failing to appear at the depositions with the Plaintiff's

representatives. Therefore, Defendant LWDNR requests that the Court allow it to submit a Certification of fees and costs incurred in the preparation of this Motion.

17. I certify that the statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


By _____
David C. Rosciszewski

Dated: November 7, 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

SRC CONSTRUCTION CORP. OF
MONROE d/b/a SRC INDUSTRIES,
INC.,

Plaintiff,

v.

ATLANTIC CITY HOUSING
AUTHORITY d/b/a THE CITY OF
ATLANTIC CITY HOUSING
AUTHORITY AND URBAN
DEVELOPMENT AGENCY, et al.,

Defendants.

Civil No. 10-3461 (JEI/AMD)

AMENDED SCHEDULING ORDER
AND ORDER FOR INFORMAL APPLICATION

This Scheduling Order confirms the directives given to counsel during the telephone status conference on September 6, 2011; and the Court noting the following appearances: Brian K. Condon, Esquire, appearing on behalf of the plaintiff; Dana B. Ostrovsky, Esquire, appearing on behalf of the defendant Atlantic City Housing Authority; and Joseph M. Suarez, Esquire, appearing on behalf of the defendant Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C.; and for good cause shown:

IT IS this **6th** day of **September 2011**, hereby **ORDERED**:

1. Pretrial factual discovery is hereby extended to **October 31, 2011**. All pretrial discovery shall be concluded by that date. All discovery motions and applications pursuant to L. Civ. R. 37.1(a)(1) shall be made returnable before the expiration of pretrial factual discovery.

2. **Depositions**. All depositions are to be conducted in accordance with the procedures set forth in the order of Judge Gawthrop, in Hall v. Clifton Precision, 150 F.R.D. 525 (E.D.Pa. 1993).

3. All expert reports and expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) on behalf of plaintiff shall be served upon counsel for defendants not later than **November 30, 2011**. All expert reports and expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) on behalf of defendants shall be served upon counsel for plaintiff not later than **December 30, 2011**. Each such report should be accompanied by the curriculum vitae of the proposed

EX. A

expert witness. No expert opinion testimony shall be admitted at trial with respect to any witness for whom this procedure has not been timely followed. Depositions of proposed expert witnesses shall be concluded by **January 31, 2012**.

The parties shall also exchange, in accordance with the foregoing schedule, written statements identifying all opinion testimony counsel and the parties anticipate will be presented at trial pursuant to F. R. Evid. 701 and Teen-Ed v. Kimball International, Inc., 620 F.2d 399 (3d Cir. 1980).

4. **Dispositive Motions**. Dispositive motions shall be filed with the Clerk of the Court no later than **February 24, 2012**. Opposition to the motion should be served in a timely fashion. Counsel are to follow L. Civ. R. 7.1, 7.2, 56.1 and 78.1 (Motion Practice - Generally).

5. The Final Pretrial Conference on February 29, 2012 is **RESCHEDULED to March 29, 2012 at 10:30 A.M.**. The form Joint Final Pretrial Order (original and two copies for the Court, with sufficient copies for all counsel), as signed by all counsel, shall be delivered to the Court at the conference. The plaintiff's portion of the proposed order shall be prepared and sent to defense counsel not later than **March 9, 2012**. Defendant's portion of the proposed order shall be prepared and returned to counsel for plaintiff not later than **March 23, 2012**. **FAILURE TO APPEAR AT THIS CONFERENCE WILL LEAD TO THE IMPOSITION OF SANCTIONS, INCLUDING COSTS.**

TRIAL COUNSEL MUST APPEAR AT THE FINAL PRETRIAL CONFERENCE UNLESS SPECIFICALLY EXCUSED BY THE COURT. Fed. R. Civ. P. 16(d).

6. Any application for an extension of time beyond the deadlines set herein shall be made in writing to the undersigned and served upon all counsel prior to expiration of the period sought to be extended, and shall disclose in the application all such extensions previously obtained, the precise reasons necessitating the application showing good cause under Fed. R. Civ. P. 16(b), and whether adversary counsel agree with the application. The schedule set herein will not be extended unless good cause is shown.

THE FAILURE OF A PARTY OR ATTORNEY TO OBEY THIS ORDER MAY RESULT IN IMPOSITION OF SANCTIONS UNDER Fed. R. Civ. P. 16(f).

s/ Ann Marie Donio
ANN MARIE DONIO
United States Magistrate Judge

cc: Hon. Joseph E. Irenas



Parker McCay P.A.
9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mount Laurel, New Jersey 08054-1539
P: 856-596-8900
F: 856-596-9631
www.parkermccay.com

Dana B. Ostrovsky, Esquire
P: 856-810-5844
F: 856-596-3170
dostrovsky@parkermccay.com

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October 17, 2011

File No. 14529-0002

VIA FACSIMILE AND REGULAR MAIL

Brian K. Condon, Esquire
Condon & Associates
55 Old Turnpike Road, Ste. 502
Nanuet, NY 10954

Re: SRC Construction v. Atlantic City Housing Authority, et als
Docket No.: 1:10-cv-03461-JEI-AMD

Dear Mr. Condon:

Enclosed please find Defendant, Atlantic City Housing Authority's Notices in Lieu of Subpoena for the depositions of:

Duff McQueen- October 26, 2011 at 1:00 p.m. ✓
Don Sanders- October 27, 2011 at 1:00 p.m. ✓
Roger Watkins-October 28, 2011 at 1:00 p.m. ✓
Kim Fulner-October 31, 2011 at 1:00 p.m. ✓

Although this case is venued in Camden County, I have noticed the depositions for my office as I assume we will all be more comfortable there than in the Courthouse. Thank you for your attention and courtesy.

Very truly yours,


DANA B. OSTROVSKY

DBO/ml
Enclosures

cc: Joseph M. Suarez, Esquire (w/encls.) ✓

EX.B

File No. 14268-0011

Law Offices

PARKER McCAY P.A.

9000 Midlantic Drive, Ste. 300

P.O. Box 5054

Mt. Laurel, NJ 08054

(856) 596-8900

**Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency**

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

SRC CONSTRUCTION CORP. OF :
MONROE d/b/a SRC INDUSTRIES, INC. :

Plaintiff :

v. :

ATLANTIC CITY HOUSING :
AUTHORITY d/b/a THE CITY OF :
ATLANTIC CITY HOUSING :
AUTHORITY AND URBAN :
REDEVELOPMENT AGENCY, :
LINDEMON, WINCKELMANN, :
DEUPREE, MARTIN, RUSSELL & :
ASSOCIATES, P.C., and CZAR :
ENGINEERING :

Defendants :

Civil Action No. 1:10-cv-03461-JEI-
AMD

NOTICE IN LIEU OF SUBPOENA

TO: DUFF McQUEEN
c/o Condon & Associates, PLLC
55 Old Turnpike Road, Suite 502
Nanuet, NY 10954


PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce **DUFF McQUEEN** to

Handwritten signature

attend and give testimony on **Wednesday, October 26, 2011 at 1:00 p.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 
DANA B. OSTROVSKY

Dated: 10/17/11

File No. 14268-0011

Law Offices

PARKER McCAY P.A.

9000 Midlantic Drive, Ste. 300

P.O. Box 5054

Mt. Laurel, NJ 08054

(856) 596-8900

**Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency**

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

**SRC CONSTRUCTION CORP. OF
MONROE d/b/a SRC INDUSTRIES, INC.**

Plaintiff

v.

**ATLANTIC CITY HOUSING
AUTHORITY d/b/a THE CITY OF
ATLANTIC CITY HOUSING
AUTHORITY AND URBAN
REDEVELOPMENT AGENCY,
LINDEMON, WINCKELMANN,
DEUPREE, MARTIN, RUSSELL &
ASSOCIATES, P.C., and CZAR
ENGINEERING**

Defendants

**Civil Action No. 1:10-cv-03461-JEI-
AMD**

NOTICE IN LIEU OF SUBPOENA

**TO: DON SANDERS
c/o Condon & Associates, PLLC
55 Old Turnpike road, Suite 502
Nanuet, NY 10954**

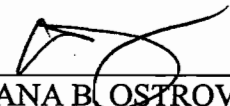
**PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce DON SANDERS to**

M

attend and give testimony on **Thursday, October 27, 2011 at 1:00 p.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 
DANA B. OSTROVSKY

Dated: 10/17/11

File No. 14268-0011

Law Offices

PARKER McCAY P.A.

9000 Midlantic Drive, Ste. 300

P.O. Box 5054

Mt. Laurel, NJ 08054

(856) 596-8900

**Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

**SRC CONSTRUCTION CORP. OF
MONROE d/b/a SRC INDUSTRIES, INC.**

Plaintiff

v.

**ATLANTIC CITY HOUSING
AUTHORITY d/b/a THE CITY OF
ATLANTIC CITY HOUSING
AUTHORITY AND URBAN
REDEVELOPMENT AGENCY,
LINDEMON, WINCKELMANN,
DEUPREE, MARTIN, RUSSELL &
ASSOCIATES, P.C., and CZAR
ENGINEERING**

Defendants

**Civil Action No. 1:10-cv-03461-JEI-
AMD**

NOTICE IN LIEU OF SUBPOENA


**TO: ROGER WATKINS
c/o Condon & Associates, PLLC
55 Old Turnpike road, Suite 502
Nanuet, NY 10954**

PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce **ROGER WATKINS** to

attend and give testimony on **Friday, October 28, 2011 at 1:00 p.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 
DANA B. OSTROVSKY

Dated:

10/17/11

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OCT 18 2011

File No. 14268-0011

Law Offices

PARKER McCAY P.A.

9000 Midlantic Drive, Ste. 300

P.O. Box 5054

Mt. Laurel, NJ 08054

(856) 596-8900

Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

SRC CONSTRUCTION CORP. OF :
MONROE d/b/a SRC INDUSTRIES, INC. :

Plaintiff :

v. :

ATLANTIC CITY HOUSING :
AUTHORITY d/b/a THE CITY OF :
ATLANTIC CITY HOUSING :
AUTHORITY AND URBAN :
REDEVELOPMENT AGENCY, :
LINDEMON, WINCKELMANN, :
DEUPREE, MARTIN, RUSSELL & :
ASSOCIATES, P.C., and CZAR :
ENGINEERING :

Defendants :

Civil Action No. 1:10-cv-03461-JEI-
AMD

NOTICE IN LIEU OF SUBPOENA

TO: KIM FULNER
c/o Condon & Associates, PLLC
55 Old Turnpike Road, Suite 502
Nanuet, NY 10954

PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce **KIM FULNER** to

Handwritten signature

attend and give testimony on **Monday, October 31, 2011 at 1:00 p.m.** at the law offices of **PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 
DANA B. OSTROVSKY

Dated: 10/17/11



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Dana B. Ostrovsky, Esquire
P: 856-810-5844
F: 856-596-3170
dostrovsky@parkermccay.com

October 14, 2011

File No. 14529-0002

VIA FACSIMILE AND REGULAR MAIL

Brian K. Condon, Esquire
Condon & Associates
55 Old Turnpike Road, Ste. 502
Nanuet, NY 10954

Re: SRC Construction v. Atlantic City Housing Authority, et als
Docket No.: 1:10-cv-03461-JEI-AMD

Dear Mr. Condon:

Enclosed please find Defendant, Atlantic City Housing Authority's Notices in Lieu of Subpoena for the depositions of:

Michael Caridi- October 24, 2011
Janet Rotunde- October 25, 2011
Richard Levine- October 26, 2011
Michael Song- October 27, 2011
Joseph Rotunde- October 28, 2011
Richard Rotunde- October 31, 2011

Although this case is venued in Camden County, I have noticed the depositions for my office as I assume we will all be more comfortable there than in the Courthouse. Thank you for your attention and courtesy.

Very truly yours,


DANA B. OSTROVSKY

DBO/ml
Enclosures
cc: Joseph M. Suarez, Esquire (w/encls.)

File No. 14268-0011

Law Offices

PARKER McCAY P.A.

9000 Midlantic Drive, Ste. 300

P.O. Box 5054

Mt. Laurel, NJ 08054

(856) 596-8900

**Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency**

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

SRC CONSTRUCTION CORP. OF :
MONROE d/b/a SRC INDUSTRIES, INC. :

Plaintiff :

v. :

ATLANTIC CITY HOUSING :
AUTHORITY d/b/a THE CITY OF :
ATLANTIC CITY HOUSING :
AUTHORITY AND URBAN :
REDEVELOPMENT AGENCY, :
LINDEMON, WINCKELMANN, :
DEUPREE, MARTIN, RUSSELL & :
ASSOCIATES, P.C., and CZAR :
ENGINEERING :

Defendants :

Civil Action No. 1:10-cv-03461-JEI-
AMD

NOTICE IN LIEU OF SUBPOENA

TO: MICHAEL CARIDI
c/o Condon & Associates, PLLC
55 Old Turnpikd road, Suite 502
Nanuet, NY 10954

PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce **MICHAEL CARIDI** to

11

attend and give testimony on **Monday, October 24, 2011 at 10:00 a.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 
DANA B. OSTROVSKY

Dated: 10/14/11

File No. 14268-0011

Law Offices
PARKER McCAY P.A.
9000 Midlantic Drive, Ste. 300
P.O. Box 5054
Mt. Laurel, NJ 08054
(856) 596-8900

Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

SRC CONSTRUCTION CORP. OF :
MONROE d/b/a SRC INDUSTRIES, INC. :

Plaintiff :

v. :

ATLANTIC CITY HOUSING :
AUTHORITY d/b/a THE CITY OF :
ATLANTIC CITY HOUSING :
AUTHORITY AND URBAN :
REDEVELOPMENT AGENCY, :
LINDEMON, WINCKELMANN, :
DEUPREE, MARTIN, RUSSELL & :
ASSOCIATES, P.C., and CZAR :
ENGINEERING :

Defendants :

Civil Action No. 1:10-cv-03461-JEI-
AMD

NOTICE IN LIEU OF SUBPOENA

TO: JANET ROTUNDE
c/o Condon & Associates, PLLC
55 Old Turnpike Road, Suite 502
Nanuet, NY 10954

PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce **JANET ROTUNDE** to

11

attend and give testimony on **Tuesday, October 25, 2011 at 10:00 a.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By 
DANA B. OSTROVSKY

Dated: 10/14/11

File No. 14268-0011

Law Offices

PARKER McCAY P.A.

9000 Midlantic Drive, Ste. 300

P.O. Box 5054

Mt. Laurel, NJ 08054

(856) 596-8900

**Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency**

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

**SRC CONSTRUCTION CORP. OF
MONROE d/b/a SRC INDUSTRIES, INC.**

Plaintiff

v.

**ATLANTIC CITY HOUSING
AUTHORITY d/b/a THE CITY OF
ATLANTIC CITY HOUSING
AUTHORITY AND URBAN
REDEVELOPMENT AGENCY,
LINDEMON, WINCKELMANN,
DEUPREE, MARTIN, RUSSELL &
ASSOCIATES, P.C., and CZAR
ENGINEERING**

Defendants

**Civil Action No. 1:10-cv-03461-JEI-
AMD**

NOTICE IN LIEU OF SUBPOENA

**TO: RICHARD LEVINE
c/o Condon & Associates, PLLC
55 Old Turnpikd road, Suite 502
Nanuet, NY 10954**


**PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce RICHARD LEVINE**

[Handwritten signature]

to attend and give testimony on **Wednesday, October 26, 2011 at 10:00 a.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 
DANA B. OSTROVSKY

Dated: 10/14/11

File No. 14268-0011

Law Offices

PARKER McCAY P.A.

9000 Midlantic Drive, Ste. 300

P.O. Box 5054

Mt. Laurel, NJ 08054

(856) 596-8900

**Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency**

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OCT 17 2011
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

SRC CONSTRUCTION CORP. OF :
MONROE d/b/a SRC INDUSTRIES, INC. :

Plaintiff :

v. :

ATLANTIC CITY HOUSING :
AUTHORITY d/b/a THE CITY OF :
ATLANTIC CITY HOUSING :
AUTHORITY AND URBAN :
REDEVELOPMENT AGENCY, :
LINDEMON, WINCKELMANN, :
DEUPREE, MARTIN, RUSSELL & :
ASSOCIATES, P.C., and CZAR :
ENGINEERING :

Defendants :

Civil Action No. 1:10-cv-03461-JEI-
AMD

NOTICE IN LIEU OF SUBPOENA

TO: MICHAEL SONG
c/o Condon & Associates, PLLC
55 Old Turnpikd road, Suite 502
Nanuet, NY 10954

PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce **MICHAEL SONG** to

41

attend and give testimony on **Thursday, October 27, 2011 at 10:00 a.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 

DANA B. OSTROVSKY

Dated: 10/4/11

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File No. 14268-0011

Law Offices

PARKER McCAY P.A.

9000 Midlantic Drive, Ste. 300

P.O. Box 5054

Mt. Laurel, NJ 08054

(856) 596-8900

Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

SRC CONSTRUCTION CORP. OF :
MONROE d/b/a SRC INDUSTRIES, INC. :

Plaintiff

v.

ATLANTIC CITY HOUSING :
AUTHORITY d/b/a THE CITY OF :
ATLANTIC CITY HOUSING :
AUTHORITY AND URBAN :
REDEVELOPMENT AGENCY, :
LINDEMON, WINCKELMANN, :
DEUPREE, MARTIN, RUSSELL & :
ASSOCIATES, P.C., and CZAR :
ENGINEERING :

Defendants

Civil Action No. 1:10-cv-03461-JEI-
AMD

NOTICE IN LIEU OF SUBPOENA

TO: JOSEPH ROTUNDE
c/o Condon & Associates, PLLC
55 Old Turnpikd road, Suite 502
Nanuet, NY 10954

PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce **JOSEPH ROTUNDE**

to attend and give testimony on **Friday, October 28, 2011 at 10:00 a.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 

DANA B. OSTROVSKY

Dated: 10/14/11

File No. 14268-0011

Law Offices
PARKER McCAY P.A.
9000 Midlantic Drive, Ste. 300
P.O. Box 5054
Mt. Laurel, NJ 08054
(856) 596-8900

Attorneys for Defendant, Atlantic City Housing Authority d/b/a The City of Atlantic City
Housing Authority and Urban Redevelopment Agency

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

SRC CONSTRUCTION CORP. OF :
MONROE d/b/a SRC INDUSTRIES, INC. :

Plaintiff :

v. :

ATLANTIC CITY HOUSING :
AUTHORITY d/b/a THE CITY OF :
ATLANTIC CITY HOUSING :
AUTHORITY AND URBAN :
REDEVELOPMENT AGENCY, :
LINDEMON, WINCKELMANN, :
DEUPREE, MARTIN, RUSSELL & :
ASSOCIATES, P.C., and CZAR :
ENGINEERING :

Defendants :

Civil Action No. 1:10-cv-03461-JEI-
AMD

NOTICE IN LIEU OF SUBPOENA


TO: RICHARD ROTUNDE
c/o Condon & Associates, PLLC
55 Old Turnpikd road, Suite 502
Nanuet, NY 10954

PLEASE TAKE NOTICE THAT Defendant, Atlantic City Housing Authority,
pursuant to Rules 1:9-1 and 1:9-2, hereby demands that you produce **RICHARD**

ROTUNDE to attend and give testimony on **Monday, October 31, 2011 at 10:00 a.m. at the law offices of PARKER McCAY, 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054** in the above captioned matter.

Failure to comply with this demand may subject you to such sanctions as the Court may allow and shall direct.

PARKER McCAY P.A.
Attorneys for Defendant
Atlantic City Housing Authority

By: 
DANA B. OSTROVSKY

Dated: 10/14/11

Dana B. Ostrovsky

From: Dana B. Ostrovsky
Sent: Monday, October 24, 2011 2:57 PM
To: Brian Condon; jsuarez@suarezandsuarez.com
Cc: Laura Catina; Dawn Congiusti
Subject: RE: SRC v. ACHA, et al.

Brian-

You listed all of those people as c/o you on your client's answers to Interrogatories so I sent the notices to you. If there was any question or problem, I would have expected a call before now. 4:30 is not good for me, but I am in the office all week as I had the depositions on my calendar. When you find a moment, you can call.

Dana B. Ostrovsky, Esquire
PARKER McCAY
856-810-5844 (t)
856-596-3170 (f)

From: Brian Condon [mailto:brian@condonlawoffices.com]
Sent: Monday, October 24, 2011 12:57 PM
To: Dana B. Ostrovsky; jsuarez@suarezandsuarez.com
Cc: Laura Catina; Dawn Congiusti
Subject: RE: SRC v. ACHA, et al.

Dana,

I have been and still am on trial. I do not recall getting a confirmation notice from you. Nor do I recall agreeing to the dates that were set forth in your notices. I suggest that we have a conference later this afternoon, when I am done with my trial to arrange for scheduling of the witnesses. Also, I do not represent most of those whom you name in your letter/notices. Please advise of your availability for a conference after 4:30PM this afternoon or at any other time that is convenient for you. Please be advised that I expect to be on trial all day tomorrow as well.

As far as the documents go, I have arranged for and have brought your documents to a local copying facility for copying. My understanding based on our last conversation was that you were going to do likewise. I am assuming that you have not done that? Are you going to make me arrange to have the same picked up at your offices? Kindly advise ASAP as I thought this was already done.

Best regards,

Brian

Condon & Associates, PLLC

Brian K. Condon, Esq.
55 Old Turnpike Road, Suite 502 • Nanuet, New York 10954
845.627.8500 x 12 phone • 845.627.8507 fax
e-mail: brian@condonlawoffices.com

11/2/2011

EX.C

website: www.condonlawoffices.com

CONFIDENTIALITY NOTE: THIS EMAIL AND ANY ATTACHMENTS THERETO ARE CONFIDENTIAL AND MAY BE PROTECTED BY LEGAL PRIVILEGE. IF YOU ARE NOT THE INTENDED RECIPIENT, BE AWARE THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR USE OF THIS EMAIL OR ANY ATTACHMENT IS PROHIBITED. IF YOU HAVE RECEIVED THIS EMAIL IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY RETURNING IT TO THE SENDER AND DELETE THIS COPY FROM YOUR SYSTEM. THANK YOU FOR YOUR COOPERATION.

From: Dana B. Ostrovsky [mailto:dostrovsky@parkermccay.com]
Sent: Monday, October 24, 2011 12:31 PM
To: jsuarez@suarezandsuarez.com; Brian Condon
Subject: FW: SRC v. ACHA, et al.

First of all, Brian and you were supposed to coordinate this directly with New Jersey Legal Copy who has been waiting for a call for weeks.
Second, where was Brian and his client this morning for the deposition?

Dana B. Ostrovsky, Esquire
PARKER McCAY
856-810-5844 (t)
856-596-3170 (f)

From: Dawn Congiusti [mailto:dawn@condonlawoffices.com]
Sent: Monday, October 24, 2011 12:22 PM
To: Dana B. Ostrovsky
Subject: SRC v. ACHA, et al.

Ms. Ostrovsky:

Please allow this e-mail to serve as a request for the status of the document being duplicated in connection with the above-referenced matter.

Thank you!
Dawn

Condon & Associates, PLLC

Dawn Congiusti, Paralegal
55 Old Turnpike Road, Suite 502 - Nanuet, New York 10954
845.627.8500 x 10 phone • 845.627.8507 fax
e-mail: dawn@condonlawoffices.com
website: www.condonlawoffices.com

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PLEASE NOTE: As of June 6, 2011, the Marlton office of Parker McCay P.A. will be relocated to:

9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mount Laurel, NJ 08054-1539
(856)596-8900 Main
(856)596-9631 Main Fax

All employee email addresses and phone numbers will remain the same.

Please update your contact information to reflect this change. Thank you!

11/2/2011

This e-mail message from the law firm of Parker McCay P.A. is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

U.S. Treasury Circular 230 Notice: Any tax advice contained in this communication (including any attachments) should not be used or referred to in the promoting, marketing or recommending of any entity, investment plan or arrangement, nor is such advice intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding penalties under the Internal Revenue Code.

JOSEPH M. SUAREZ (JS 1571)

Attorney(s): **SUAREZ & SUAREZ**

Office Address & Tel No.: **2016 Kennedy Blvd., Jersey City, N.J., 07305**
Tel # 201-433-0778 – Fax # 201-433-4899

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Attorneys for Defendant, LINDEMON, WINCKELMANN,
DEUPREE, MARTIN, RUSSELL & ASSOCIATES, P.C.

Plaintiff,
SRC CONSTRUCTION CORP. OF
MONROE d/b/a SRC INDUSTRIES, INC.

vs.

Defendants,
ATLANTIC CITY OF HOUSING AUTHORITY
d/b/a THE CITY OF ATLANTIC CITY
HOUSING AUTHORITY, LINDEMON,
WINCKELMANN, DEUPREE, MARTIN,
RUSSELL & ASSOCIATES, P.C. and CZAR
ENGINEERING

Civil Action No. 1:10-cv-03461-JEI-AMD

**ORDER DISMISSING THE COMPLAINT
AS TO LINDEMON, WINCKELMANN,
DEUPREE, MARTIN, RUSSELL &
ASSOCIATES, P.C. OR IN THE
ALTERNATIVE BARRING PLAINTIFF'S
TESTIMONY AND IMPOSING COSTS
AND FEES**

Hearing Date: December 5, 2011

The relief set forth is hereby **ORDERED**

Dated: _____, 2011

UNITED STATES DISTRICT COURT JUDGE

Upon consideration of the relief requested in the Motion brought by Defendant Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C. pursuant to Fed.R.Civ.P.37(b)(2) and (d) for the entry of an Order dismissing the Complaint against Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C., or in the alternative, barring the testimony of Plaintiff's representatives, Duff McQueen, Don Sanders, Roger Watkins, Kim Fulner, Michael Caridi, Janet Rotunde, Richard Levine, Michael Song, Joseph Rotunde, and Richard Rotunde, and to impose costs and fees;

and proper and sufficient Notice of the Motion having been given; and the Court having considered the submissions and arguments of counsel; and for good cause having been shown, it is,

ORDERED that Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C.'s Motion to dismiss the Complaint of SRC Construction Corp. of Monroe d/b/a SRC Industries, Inc. against Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C., is hereby **GRANTED**; and it is further,

ORDERED that the Complaint against Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C. is hereby **DISMISSED** with prejudice; or in the alternative, it is

ORDERED that the testimony of Plaintiff's representatives, Duff McQueen, Don Sanders, Roger Watkins, Kim Fulner, Michael Caridi, Janet Rotunde, Richard Levine, Michael Song, Joseph Rotunde, and Richard Rotunde, be and is hereby barred from introduction at the time of trial; and it is further,

ORDERED that counsel for the Movant be and is hereby entitled to the fees and costs associated with the preparation of this Motion; and it is further,

ORDERED that within seven days of this Order, counsel for Lindemon, Winckelmann, Deupree, Martin, Russell & Associates, P.C. shall submit a Certification of fees and costs to the Court and the Plaintiff shall pay the amount set forth in said Certification; and it is further,

ORDERED that a copy of this Order shall be served upon all counsel within _____ days of receipt hereof by counsel for Movant.

CERTIFICATION OF MAILING

I hereby certify that the within Notice of Motion was forwarded to the Clerk of the United States District Court, District of New Jersey, on November 7, 2011 by electronic mail, and that a true copy hereof was forwarded on the same day, by electronic mail and first class mail, to:

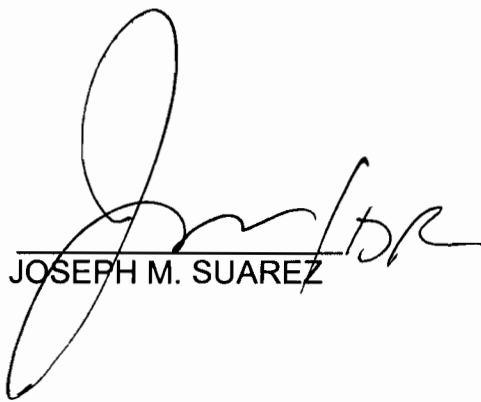
Dana B. Ostrovsky, Esq.
Parker McCay
Three Greentree Centre
7001 Lincoln Drive West - PO Box 974
Marlton, NJ 08053
dostrovsky@parkermccay.com

Kevin M. Bothwell, Esq.
Thompson Becker & Bothwell, LLC
Ten Melrose Avenue
Woodcrest Pavilion, Suite 210
Cherry Hill, NJ 08003
kbothwell@tbblawfirm.com

Brian K. Condon, Esq.
Condon & Associates, PLLC
55 Old Turnpike Road, Suite 502
Nanuet, NY 10954
brian@condonlawoffices.com

A courtesy copy was also forwarded by regular mail, to:

Hon. Joseph E. Irenas
U.S. District Court
District of New Jersey
Mitchell H. Cohen U.S. Courthouse
1 John F. Gerry Plaza
Camden, NJ 08101


JOSEPH M. SUAREZ

Dated: November 7, 2011